

REMARKS

The Notice of Non-Compliant Amendment dated September 5, 2008 ("Notice") asserted that the Amendment filed February 28, 2008 ("Amendment") is non-compliant because "[e]ach claim has not been provided with the proper status identifier, and as such, the individual status of each claim can not be identified." The Notice does not identify which claims do not have a proper status identifier.

The Amendment, filed by previous counsel for the owner of the patent application, was filed in response to a Restriction Requirement dated October 31, 2007. The Restriction Requirement, as clarified in a subsequent Examiner Interview described in the Amendment, required election of either species A (directed to telescoping catheters in which the second and third sheaths are coupled to the distal end of the telescoping section) or species B (directed to telescoping catheters in which the second and third sheaths are coupled to the proximal end of the telescoping section).

In the Amendment, the Applicants elected species A. The Applicants further amended claims 12 and 26 so that those amended claims fall within the elected species. Unamended claim 1 also falls within species A. Accordingly, the Amendment correctly indicated that all of the claims (claims 1-27) fell within the scope of the elected species A. The present counsel has reviewed all of the status identifiers in the Amendment and they all appear correct.

The present counsel contacted the Examiner to determine the basis for the Notice as all of the status identifiers appear correct. The Examiner indicated that he expected that at least some of the claims should have been identified as "withdrawn" in view of the Restriction Requirement.

Claims are only indicated as "withdrawn" if they fall outside of the elected species or group. In this instance, all of the claims fall within elected species A and, therefore, none of the claims are labeled "withdrawn". To indicate any of the present claims as "withdrawn" would have been incorrect.

